

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A SUBMISSION UNDER 35 U.S.C. 371**

ATTORNEY'S DOCKET NUMBER

ARTHP120US

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

107365237

INTERNATIONAL APPLICATION NO.

PCT/DE2004/002839

INTERNATIONAL FILING DATE

31 December 2004

PRIORITY DATE CLAIMED

31 December 2003

TITLE OF INVENTION

INTERVERTEBRAL DISK IMPLANT

APPLICANT(S) FOR DO/EO/US

Kloss, et al.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a submission under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a submission under 35 U.S.C. 371.
3. ☒ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☒ The US has been elected (Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
 - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
 - b. ☒ has been communicated by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☒ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☒ is attached hereto.
 - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
 - b. ☐ have been communicated by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☒ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A preliminary amendment.
14. ☒ An Application Data Sheet under 37 CFR 1.76.
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821-1.825.
18. ☐ A second copy of the published International Application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: Express Mail Certificate; Request Not to Enter Article 34 Amendments; Credit Card Payment Form

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. 10/585237 (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. PCT/DE2004/002839		ATTORNEY'S DOCKET NUMBER ARTHP120US	
21. The following fees are submitted:					
<input checked="" type="checkbox"/> a) Basic national fee.....				\$ 300.00	
<input checked="" type="checkbox"/> b) Examination fee.....				\$ 200.00	
<input checked="" type="checkbox"/> c) Search fee.....				\$ 500.00	
TOTAL OF ABOVE CALCULATIONS =				\$1000.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
36	- 100 =	/50 =	x \$250.00	\$	
Surcharge of \$130.00 for furnishing the oath or declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(e)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$	
Total claims	20	- 20 =	x \$50.00	\$	
Independent claims	1	- 3 =	x \$200.00	\$	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$360.00	\$	
TOTAL OF ABOVE CALCULATIONS =				\$ 1,000.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$ 500.00	
SUBTOTAL =				\$ 500.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$	
TOTAL NATIONAL FEE =				\$ 500.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$ 500.00	
				Amount to be refunded:	\$
				Amount to be charged:	\$ 500.00
<p>a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>50-1063</u>. A duplicate copy of this sheet is enclosed.</p> <p>d. <input checked="" type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p>					
<p>NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.</p> <p>SEND ALL CORRESPONDENCE TO:</p> <p>Amin & Turocy, LLP 24th Floor, National City Center 1900 East Ninth Street Cleveland, Ohio 44114 Telephone: (216) 696-8730 Fax: (216) 696-8731</p>					
				SIGNATURE	
				Gregory Turocy	
				NAME	
				36,952	
				REGISTRATION NUMBER	

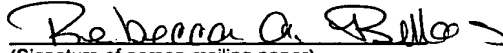
10/585237

ARTHP120US

iAP20 Rec'd PCT/PTO 29 JUN 2006

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service on the date shown below with sufficient postage as Express Mail Label **EV763465441US** in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.


(Signature of person mailing paper)

June 29, 2006
(Date)

Rebecca A. Bellas
(Type or print name of person mailing paper)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application

Applicant:	Kloss, et al.	:	Art Unit:	Unknown
Filed:	HEREWITH	:	Examiner:	Unknown
Serial No.	-----	:		
Express Mail No.	EV763465441US	:		
Title:	INTERVERTEBRAL DISK IMPLANT			

REQUEST TO NOT ENTER ARTICLE 34 AMENDMENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Prior to examination of the above-identified patent application, please do NOT enter the Article 34 Amendments made during the International Phase of the corresponding PCT application. It is noted, however, that the claims in the attached Preliminary Amendment closely mimic the claims of the Article 34 Amendments, except

10/585237

ARTHP120US

IAP20 Rec'd PCT/PTO 29 JUN 2006

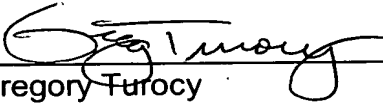
that multiple dependencies have been removed. This paper accompanies new application transmittal papers.

Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-1063.

Respectfully submitted,

AMIN & TUROCY, LLP


Gregory Turocy
Reg. No. 36,952

24th Floor, National City Center
1900 East Ninth Street
Cleveland, Ohio 44114
Telephone: (216) 696-8730
Facsimile: (216) 696-8731

10/585237

AP20 REC d PCT/PTO 29 JUN 2006

Docket No.: ARTHP120US
Applicant: Kloss, et al.
Title: INTERVERTEBRAL DISK IMPLANT

I hereby certify that the attached patent application (along with any other paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on this date June 29, 2006, in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV763465441US addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Rebecca A. Bellas

(Typed or Printed Name of Person Mailing Paper)

Rebecca A. Bellas

(Signature of Person Mailing Paper)